

# LANCASTER COUNTY

COUNTY - CITY BUILDING Telephone: (402)441-7410  
LINCOLN, NEBRASKA 68508 FAX : (402) 441-6513  
*BOARD OF COMMISSIONERS*

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK  
FOR ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

## **REQUEST FOR PROPOSALS (RFP) SPECIFICATION NO. 05-301**

Lancaster County intends to enter into a contract and invite you to submit a sealed proposal for:

### **ANNUAL REQUIREMENTS FOR PHARMACY SERVICES FOR COUNTY GENERAL ASSISTANCE**

#### **MEETING OR EXCEEDING COUNTY SPECIFICATIONS**

Sealed Proposals will be received by the County on or before 12:00 noon Wednesday, **December 28, 2005** in the office of the Purchasing Agent, Suite 200, "K" Street Complex, located at 440 South 8th Street, Lincoln, Nebraska 68508. Only the names of responding proposers will be publicly read in the Bid/Conference Room located on the First Floor of the "K" Street Complex.

Bid Specification and initial bidders list may be down loaded off the City/County Purchasing Division web site at: [www.lincoln.ne.gov](http://www.lincoln.ne.gov) , search "Bid", select current year, select bid specification listed above.

Proposers should take caution if U.S. mail or mail delivery services are used for the submission of response. Mailing should be made in sufficient time for response to arrive in the Purchasing Division, prior to the time and date specified above. Late proposal will not be considered.

#### **COMMISSIONERS**

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DEB SCHORR \* LARRY HUDKINS \* RAY STEVENS \* BERNIE HEIER \* BOB WORKMAN  
KERRY EAGAN, Chief Administrative Officer

# SEALED PROPOSAL SPECIFICATION NO. 05-301

**BID OPENING TIME:** 12:00 NOON  
**DATE:** Wednesday, December 28, 2005

**ADDENDA RECEIPT:** The receipt of the addenda to the specification number \_\_\_\_ through \_\_\_\_ is hereby acknowledged. Failure of any bidder to receive any addenda or interpretation shall not relieve the bidder from obligations specified in the bid request. All addenda shall become part of the final contract document.

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The undersigned submitter, having full knowledge of the requirements of the County for the above listed project, the Contract Documents and all other terms and conditions of the request, agrees to provide the labor, certificate of insurance, unemployment compensation, materials and equipment in strict accordance with the plans and specifications as prepared by the County for the consideration of the amount set forth in the following price schedule:

## PHARMACY SERVICES FOR GENERAL ASSISTANCE

By signing this offer you are agreeing to the following: Compensation for prescribed pharmacy items shall be based on the lesser of the following criteria; the Pharmacy's usual and customary charges or agreed upon formularies and *shall not exceed the medicaid allowable amounts*.

### INCLUDE WITH YOUR RESPONSE

1. A brief background summary of your firm (including; company structure, location(s) of dispensing pharmacy(s) and/or branches, key personnel, experience and qualifications, etc.
2. Describe your current quality management program and procedures that are in place to ensure accurate and reliable dispensing of prescription items.
3. Describe your customer/client service philosophy.
4. Describe your proposed delivery and billing service include any fees
5. Indicate your fee for repackaging Prescription Assistance Program orders

**No bidders bond or insurance certificate required with offer**

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**NOTE: RETURN 6 COMPLETE COPIES OF BID OFFER AND SUPPORTING MATERIAL.**

**MARK OUTSIDE OF PROPOSAL ENVELOPE AS FOLLOWS: SEALED PROPOSAL FOR SPEC. NO. 05-301**

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The undersigned signatory of the bidder represents and warrants that he has full and complete authority to submit this offer to Lancaster County of Lincoln, and to enter into a contract if this offer is accepted.

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**COMPANY NAME**

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**BY (Signature)**

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**STREET ADDRESS or P.O. BOX**

---

**(Print Name)**

---

**CITY, STATE**

---

**ZIP CODE**

---

**(Title)**

---

**TELEPHONE NO.**

---

**(Date)**

---

**FAX NO.**

---

**Email Address**

# INSTRUCTIONS TO PROPOSERS

## LANCASTER COUNTY, NEBRASKA PURCHASING DIVISION

### **1. PROPOSAL PROCEDURE**

- 1.1 Proposer shall submit six (6) complete sets of the RFP documents and all supporting material. Any interlineation, alteration or erasure on the specification document shall be initialed by the proposer. Proposer shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the Proposer's letterhead and firmly attached to the response/offer document.
- 1.2 *Proposed prices shall be submitted on the Proposal Form included with the RFP number and/or description clearly marked on the outside of the envelope.*
- 1.3 Each RFP must be legibly printed in ink or by typewriter, include full name, business address, and telephone no. of the Proposer; and be signed in ink by the Proposer.
- 1.4 Response by a firm / organization other than a corporation must include the name and address of each member.
- 1.5 A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.6 Any person signing a response for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.7 Proposals received after the time and date established for receiving offers will be rejected.

### **2. EQUAL OPPORTUNITY**

- 2.1 Each proposer agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, proposer shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, disability, national origin, age, or marital status.

### **3. DATA PRIVACY**

- 3.1 Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 3.2 The proposer agrees to hold the County harmless from any claims resulting from the proposer's unlawful disclosure or use of private or confidential information.
- 3.3 Proposer agrees to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementing regulations pertaining to confidentiality of health information.
  1. If applicable to the work requested a sample "Business Associate Contract" will be included, which will be part of the contract and incorporated by this reference.

### **4. PROPOSER'S REPRESENTATION**

- 4.1 Each proposer by signing and submitting an offer, represents that he/she has read and understands the specification documents, and the offer has been made in accordance therewith.
- 4.2 Each offer represents the proposer is familiar with the local conditions under which the work will take place and has correlated observations with the RFP requirements.

### **5. INDEPENDENT PRICE DETERMINATION**

- 5.1 By signing and submitting this RFP, the proposer certifies that the prices offered have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other proposer competitor; unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the proposer prior to RFP opening directly or indirectly to any other competitor; no attempt has been made, or will be made, by the proposer to induce any person or firm to submit, or not to submit, a response for the purpose of restricting competition.

### **6. SPECIFICATION CLARIFICATION**

- 6.1 Proposers shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of specification documents.
- 6.2 Proposers desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to date and time for response receipt.
- 6.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 6.4 Oral interpretations/changes to Specification Documents made in any other manner, will not be binding on the County; proposers shall not rely upon oral interpretations.

### **7. ADDENDA**

- 7.1 Addenda are written instruments issued by the County prior to the date for receipt of offers which modify or interpret the specification document by addition, deletion, clarification or correction.
- 7.2 Addenda will be mailed or delivered to all who are known by the County to have received a complete set of specification documents.
- 7.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 7.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of offers, except an addendum withdrawing the RFP, or addendum including postponement.
- 7.5 Proposers shall ascertain prior to submitting their offer that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

### **8. ANTI-LOBBYING PROVISION**

- 8.1 During the period between the bid close date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the County Board or County Staff except in the course of County-sponsored inquiries, briefings, interviews, or presentations, unless requested by the County.

### **9. SITE VISITATION**

- 9.1 Proposers shall inform themselves of the conditions under which work is to be performed, including: site of work, the structures or obstacles which may be encountered and all other relevant matters concerning work performance.
- 9.2 The Proposer will not be allowed any extra compensation by or for any condition which he/she might fully have informed themselves of prior to submitting the offer.

## **10. EVALUATION AND AWARD**

- 10.1 The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the County of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 10.2 No offer shall be withdrawn for a period of ninety (90) calendar days after the time/ date established for receiving offers, and each proposer agrees in submitting an offer.
- 10.3 The RFP process is designed to be a competitive negotiation platform, where price is not required to be the sole determinative factor; also the County has the flexibility to negotiate with a select firm or selected firms to arrive at a mutually agreeable relationship.
- 10.4 A committee will be assigned the task of reviewing the proposals received.
  - 1. The committee may request documentation from Proposer(s) of any information provided in their proposal response, or require the Proposer to clarify or expand qualification statements.
  - 2. The committee may also require a site visit and/or verbal interview with a Proposer or select group of Proposers to clarify and expand upon the proposal response.
- 10.5 The RFP will be awarded to the most responsible proposer whose proposal will be most advantageous to the County, and deemed to best serve County requirements.
- 10.6 The County reserves the right to accept or reject any or all offers, parts of offers; request rebids; waive irregularities and technicalities in offers; such as shall best serve the requirements and interests of the County.

## **11. TERMINATION/ASSIGNMENT**

- 11.1 The County may terminate the Contract if the Contractor:
  - 1. Refuses or fails to supply enough properly skilled workers or proper equipment to satisfactorily provide/ complete the work as requested.
  - 2. Disregards laws, ordinances, or regulations or orders of a public authority having jurisdiction over the Contract.
  - 3. Otherwise commits a substantial breach of any provision of the Contract Document.
- 11.2 *By mutual agreement both parties of the contract agreement*, upon receipt and acceptance of not less than a thirty (30) calendar days written notice, the contract may be terminated on an agreed upon date, prior to the end of the contract period, without penalty to either party.
  - 1. Upon any such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof, and as the sole right and remedy of the Contractor, the County shall pay Contractor in accordance with this section.
  - 2. Upon such termination, the obligations of the Contract shall continue as to options of the work already performed and as to bona fide obligations the Contractor assumed prior to the date of termination.
- 11.3 In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee for the benefit of creditors, of the property of the Contractor, the County

may cancel this contract or affirm the contract and hold the Contractor responsible for damages.

- 11.4 The contract established as a result of this RFP process shall not be transferred to or assigned without prior written consent of the County Board of Commissioners.

## **12. INDEMNIFICATION**

- 12.1 The proposer shall indemnify and hold harmless the County, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss of use resulting therefrom; is caused in whole or part by any negligent act or omission of the proposer, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 12.2 In any and all claims against the County or any of its members, officers or employees by an employee of the proposer, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 12.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the proposer or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

## **13. TERMS OF PAYMENT**

- 13.1 Unless otherwise specified provisions state otherwise, payment in full will be made by the County within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

## **14. LAWS**

- 14.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

## **15. AFFIRMATIVE ACTION**

- 15.1 The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all bidders and encourages minority businesses and women's business enterprises to participate in our bidding process.

## **16. CONTRACT DOCUMENT**

- 16.1 County will furnish three (3) copies of the Contract to the successful Proposer who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance, and Agreement signed with the date of signature shall be attached.
- 16.2 The prepared documents shall be delivered to the County within 10 days (unless otherwise noted).
- 16.3 Upon approval and signature from the County Board, the County will return one copy to the Contractor.

# SPECIFICATIONS

## PHARMACY SERVICES FOR COUNTY GENERAL ASSISTANCE PROGRAM

### 1. SCOPE OF SERVICES

Lancaster County, herein after referred to as the County, is interested in obtaining proposals from interested Pharmacy Services Providers, herein after referred to as Proposers or Contractors, to implement and administer a pharmaceutical distribution program to adequately meet the needs of the County General Services program.

### 2. GENERAL ASSISTANCE (GA)

The GA pharmacy service program provides for the needs of individual residents of Lancaster County who meet the low income General Assistance Guidelines established by the County and do not qualify for other social service benefits.

(See attachment A - "Lancaster County General Assistance Guidelines")

- 2.1 The GA program is administered by the County's Veterans Affairs and General Assistance office located at:

Trabert Hall  
2202 S. 11<sup>th</sup> Street, Suite 150  
Lincoln, NE 68502  
Attn: Gary Chalupa, GA program supervisor  
(402) 441-3095 Fax: (402) 441-3099

### 3. INFORMATION

- 3.1 For information regarding this request please contact:

Kathy A. Smith, Assistant Purchasing Agent  
City of Lincoln/Lancaster County Purchasing Division  
440 So. 8<sup>th</sup> Street, (SW Wing), Suite 200  
Lincoln, NE 68508  
Phone: (402) 441-8309 Fax: (402) 441-6513  
Email: [ksmith@lincoln.ne.gov](mailto:ksmith@lincoln.ne.gov)

### 4. CLIENT SCREENING PROCESS

- 4.1 Low income residents apply for General Assistance and via the County GA office staffed by case workers who determine their eligibility status.
- 4.1.1 If they request Primary Health Care Services which includes Pharmacy, the case worker determines their eligibility for services; if approved, their name is placed on a pharmacy approval list.
- 4.1.2 The approved client is also required to apply through the Lancaster County Medical Society (LCMS) for all medications that are available through the Prescription Assistance Program.
- 4.1.3 Monthly, a list of eligible clients is provided (currently via fax) to the contract pharmacy which includes a listing of medications that are being provided through other sources.
- 4.1.3.1 In the near future the GA Office will be converting to a new computer program which will require the contract pharmacy to have access to the internet.
- 4.1.3.2 This internet access will eliminate the current system of faxing a monthly list to update the eligibility list at the contract pharmacy.

**5. PHARMACY ACCESS PROCESS**

- 5.1 Prior authorization from the GA caseworker is required for all prescriptions, medical supplies and durable medical equipment except those ordered in the Primary Health Care Clinic at the Lincoln/Lancaster County Health Department (LLCHD), located at 3140 N Street, Lincoln, NE.
  - 5.1.1 When the Pharmacy Svs provider is unable to contact the GA Department (e.g., weekends, holidays, after hours) for authorization and the client is an established GA recipient, they may dispense and receive reimbursement for a drug product in an emergency situation but are required to contact the GA Department the next business day to receive approval.
- 5.2 All maintenance drugs or any drug used for a chronic condition may be prescribed and dispensed in a minimum of a one (1) month supply with physician approval.
- 5.3 Over the counter medications and medical supplies will not be provided unless specifically approved by the LLCHD. A list of medications and supplies that may be provided will be maintained and kept current by the LLCHD and a copy will be provided to the contract pharmacy.
- 5.4 The dispensing fee will be the same as that allowed by the State Medicaid System. However, pharmacists shall not, under any circumstances, make a charge to the GA program which exceeds the pharmacy's usual and customary charges.
- 5.5 The LLCHD will provide a quarterly, random review of prescriptions filled to monitor the medical necessity.

**6. PHARMACY SERVICES BUDGET**

- 6.1 The County has seen a steady growth trend in the medication requirements for the GA program clients (below see past three (3) years expenditures):
  - 6.1.1 Fiscal year 2002: \$ 622,441
  - 6.1.2 Fiscal year 2003: \$ 944,098
  - 6.1.3 Fiscal year 2004 \$1,340,000
- 6.2 The County estimates a budget of \$800,00 for pharmacy services for the 2005-2006 budget year.
  - 6.2.1 We hope to achieve this reduction by qualifying more GA Clients for the Lancaster County Medical Society's Drug Assistance program which will be detailed in section "9." of these specifications.

**7. BILLING FOR GA CLIENT PHARMACY SERVICES**

- 7.1 Each month, the contract pharmacy provides the GA office with an itemized billing statement which is reviewed by the GA caseworker, the County Health Department and the GA billing clerk.
- 7.2 Once reviewed, the billing clerk will process the necessary paperwork and vouchers and send them to the County Clerk for processing a payment.
  - 7.2.1 Any item on the billing statement containing a discrepancy will be returned to the contract pharmacy for clarification.
- 7.3 All billing for this program shall be submitted to the Veteran's Affairs and General Assistance office indicated in 2.1 of these specifications, and include at the minimum the following information:
  - Patient/Client Name
  - Drug Name, Strength, NDC Code
  - Prescribed by
  - Date
  - Metric Quantity
  - Charge
- 7.4 All approved pharmacy bills are paid on a monthly basis.
  - 7.4.1 Clients who are later approved for SSI or SSDI are usually approved for Medicaid with a retroactive date.
  - 7.4.2 Once identified, the Billing Clerk will notify the contract pharmacy that the client is now approved for Medicaid.

7.4.3 ***When notified the pharmacy is then required to reimburse the county for all payments rendered within the Medicaid eligibility dates and submit the appropriate bills to Medicaid for payment.***

7.5 Billing MUST be for ONLY ACTUAL services rendered (i.e., if a prescription is ordered but not provided to the client customer for any reason), the GA program shall not be charged for the medication or service.

## **8. GENERAL ASSISTANCE CLIENT SERVICES**

8.1 General Assistance Clients services shall be billed at the medicaid rates established by the Federal Government, using the Medicaid formulary whenever feasible.

8.2 Bioequivalent generic medications will be used at all times allowable.

8.2.1 If the Health Department or authorized representative specifically requests a brand-name product, such request shall be honored.

8.2.2 Charges shall not exceed the pharmacies usual and customary charges to the general public or the Medicaid allowable charge.

8.2.3 Pharmacies shall dispense drugs listed on Medicaid's latest State Maximum Allowable Cost/Federal Upper Limit (SMAC/FUL) Listing, unless exempted under 8.2.1 above.

8.3 The preparation and packaging of all medications shall be supervised by a registered pharmacist and shall be performed in accordance with all applicable Federal and State laws and the County's appurtenant policies and procedures.

## **9. PRESCRIPTION ASSISTANCE PROGRAM**

9.1 The Prescription Assistance Program is offered by National Drug Manufacturers who offer select drugs at no cost to qualified low income individuals who meet their criteria.

9.1.1 All GA clients placed on a pharmacy approval list are required to also apply for this Prescription Assistance Program, through the Lancaster County Medical Society (LCMS).

9.2 Most medications received through the Prescription Assistance Program come in 90 day quantities.

9.2.1 Currently the County GA program is unable to take full advantage of this program at certain GA service and treatment locations due to storage and/or distribution concerns associated with the quantity and/or frequency of the medications, as the medications are distributed in bulk.

9.2.2 Successful Pharmacy must be willing to accept these bulk prescriptions and store, repackage and redistribute the bulk medication for the GA clients qualified to receive medications via the Drug Assistance program.

9.2.2.1 This service will include picking up the bulk medications from the GA service providers, repackaging it and delivering it via one of the following:

1. Weekly Medication Packs (MediPak)
2. Bi-Weekly MediPak; or
3. Monthly MediPaks

9.2.2.2 You are requested to provide your proposed fee for these services on the bidding schedule.

***NOTE: The fee you propose for the services described herein, will be in lieu of the Medicaid handling/dispensing fee NOT in addition to the fee.***

9.2.2.3 We estimate that approximately 35 to 40 GA clients will be utilizing this MediPak system.

**10. CRITERIA FOR PHARMACEUTICAL SERVICES**

- 10.1 Must be an established pharmacy in business at least for two (2) years with experience in drug distribution and consulting for similar programs.
  - 10.1.1 All services provided to GA clients and to County Personnel shall be delivered in a professional manner with respect and dignity to all persons involved.
- 10.2 Display competence in handling a high volume pharmaceutical service program with little or no error in medications provided.
- 10.3 Successful provider shall be able to provide less than 2 hr. turn-around on most standard prescriptions requested.
- 10.4 The proposer must describe staffing capacity to adequately and accurately carry out service requirements as described in the specification and contract

**11. DELIVERY AND PICKUP SERVICES**

- 11.1 The GA clients are often times housed in, or receiving medical services from group homes or treatment facilities which may include, but are not limited to the Lincoln/Lancaster County Health Department, Community Mental Health Clinic, County Health Center, CenterPointe and O.U.R. Homes.
- 11.2 Pharmacy provider must offer pick-up and delivery services for the medications received on this program.
- 11.3 Provide with your response a summary of your delivery and pickup services, including any associated charges.

**12. TERM OF THE CONTRACT**

- 12.1 The contract shall be for a three (3) year period.
  - 12.1.1 The contract shall commence on the date the contract is ratified by the signing of both parties and shall continue for thirty-six (36) consecutive months.
- 12.2 The contract shall be thereafter renewable for two additional three (3) year periods by mutual consent of the parties involved.
  - 12.2.1 If renewal of the contract for the additional terms is not desirable by either one of the parties, that party shall give written notice to the other of its intent to terminate the contract by not less than thirty (30) days prior to the expiration of the initial agreement period.
  - 12.2.2 Any renewal of the contract will be under the same terms and conditions as the original agreement.

**13. HIPAA BUSINESS ASSOCIATE AGREEMENT**

- 13.1 If and to the extent, and so long as, required by the provisions enacted by the Health Insurance Portability and Accountability Act (HIPAA)1996 and regulations promulgated thereunder, but not otherwise, Contractor does hereby assure the County that Contractor will appropriately safeguard protected health information made available to or obtained by Contractor.
- 13.2 In implementation of such assurance and without limiting the obligations of Contractor otherwise set forth in this Agreement or imposed by applicable law, Contractor hereby agrees to comply with applicable requirements of law relating to protect health information and with respect to any task or other activity Contractor performs on behalf of the County.
- 13.3 Successful Pharmacy Provider must sign and return the County's HIPAA Business Associate Agreements (a sample of which is included in the proposal package).



**14. INSURANCE**

- 14.1 Contractor shall maintain professional liability and malpractice insurance throughout the term (and any subsequent renewal term) of this agreement.
- 14.2 The amounts of such insurance will be those minimums (if any) prescribed by law and/or recommended by the American Pharmaceutical Association.
- 14.3 Contractor shall provide proof of insurance via standard accord certificate as per "Insurance Requirements for all County Contracts". (See attached sample contract documents)

**15. NON-ASSIGNABLE**

- 15.1 This contract cannot be assignable by Contractor without written permission from the Lancaster County Board of Commissioners.

**16. MODIFICATION OF PHARMACY SERVICES**

- 16.1 The pharmacy services as specified in the contract and this proposal for pharmaceutical services cannot be modified by either party without the written consent of both parties.

**17. CONTRACT PROCEDURES AND PROVISIONS**

- 17.1 The enclosed contract, proposal and addenda provided to the County by the contractor shall comprise the entire contract of the parties.
  - 17.1.1 No change in, addition to, or waiver of any provision of this contract shall be binding unless it is in writing, signed by both parties, and added to this contract as an amendment.
- 17.2 All other expenses incurred in the implementation and operation of pharmacy services not mentioned herein will be borne by the contractor.

**18. AWARD OF THE RFP REQUIREMENTS:** Responses to this request will be reviewed and ranked by a committee of the program providers and administrative staff.

- 18.1 Top ranked Proposers may be requested to give an oral presentation of the program offered and to further clarify their offers on individual program mechanics and procedures.

**CONTRACT DOCUMENTS**

**LANCASTER COUNTY**

**NEBRASKA**

**FOR**

**ANNUAL REQUIREMENTS FOR PHARMACY SERVICES**  
**FOR GENERAL ASSISTANCE**

**SPECIFICATION #05-301**

**CONTRACTOR: “contractor”**

# LANCASTER COUNTY, NEBRASKA

## CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between **“Contractor”, “Address”, “csz”** hereinafter called contractor, and the Lancaster County, Nebraska, hereinafter called the County.

WITNESS, that:

WHEREAS, the County has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

**Specification #05-301 Annual Requirements for Pharmacy Services and related consulting services, supplies, equipment, and delivery thereof for General Assistance (Exhibit 1)**

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the County, in the manner and at the time specified, a sealed Proposal in accordance with the terms of said advertisement; and,

WHEREAS, the County, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the most responsible, responsive Proposer for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the County have agreed and hereby agree as follows:

### 1. AGREEMENT DOCUMENTS

1. The Agreement consists of this document and all other exhibits, specifications, supplementary conditions, offers, addenda, and other documents attached or referenced. It may also include amendments added in the future.

### 2. CONTRACTOR'S OBLIGATIONS

- 2.1 SERVICE DESCRIPTION. The Contractor will provide pharmacy and related services as described in the specifications **(see exhibit 1)**, and the Contractor's response dated \_\_\_\_\_, 2005 **(see exhibit 2)**. All work shall be completed to the County's satisfaction.
- 2.2 The Contractor must obtain prior written approval from the County for any change in the scope of work that materially increases or decreases the cost of performance. In addition, the Contractor must perform all modified work according to the terms of this Agreement.

2.3 The County will not accept any claim for extra work or materials furnished unless the Contractor receives prior written authorization from the County.

2.3.1 Details shall be listed below

2.3.2 All work or materials furnished without County's prior written authorization are at the Contractor's own risk and expense.

### 3. COUNTY'S OBLIGATIONS

3.1 Details to be negotiated

### 4. PAYMENTS

4.1 The County will pay the Contractor and the Contractor shall remit to the County for performance of services according to the specifications **(see Exhibit 1)**.

4.2 The Contractor may not make any charge or claim for damages that result from delays or hindrances beyond the County's control.

4.2.1 The sole form of compensation for delay or hindrances is a reasonable extension of time agreed to by the parties.

4.2.2 An extension is not a waiver of any of the County's legal rights.

4.3 All documents the Contractor presents to the County under this agreement are the County's permanent property.

4.3.1 The Contractor must deliver all required reports before the County will make final payment.

### 5. CONFIDENTIALITY

5.1 If and to the extent, and so long as, required by the provisions enacted by the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder, but not otherwise, Contractor does hereby assure the County that Contractor will appropriately safeguard protected health information made available to or obtained by Contractor **(see Attachment 1)**.

### 6. TERM OF AGREEMENT

6.1 The Work included in this Contract shall for the annual requirements beginning **February 1, 2006** through **January 31, 2009** .

6.2 Contract shall be renewable for one (1) additional three (3) year period *by mutual consent of the parties* (February 1, 2009 through January 31, 2012)

6.3 The County shall notify the Contractor of any determination to extend this Agreement no less than thirty (30) days prior to the beginning of the relevant optional year.

## 7. TERMINATION OF THE AGREEMENT

- 7.1 The Agreement may be terminated by the following:
  - 7.1.1 Termination for Convenience. The County reserves the right to terminate any part of or the entire contract that may result from this bid without cause and at any time provided the Contractor is given thirty (30) calendar days written notice.
    - 7.1.1.1 The Contractor may cancel said agreement upon ninety days written notice (to allow sufficient time for the County to secure another provider).
  - 7.1.2 Termination for Cause. The County may terminate the Contract if the Contractor:
    - 7.1.2.1 Refuses or fails to supply enough properly skilled workers or proper equipment to satisfactorily provide complete needs assessment as requested.
    - 7.1.2.2 Disregards laws, ordinances, or regulations or orders of a public authority having jurisdiction over the Contract.
    - 7.1.2.3 Otherwise commits a substantial breach of any provision of the Contract Document.
- 7.2 The County and the Contractor shall have the following obligations upon termination:
  - 7.2.1 The County must notify the Contractor in writing. Upon receipt of notice, the Contractor must cease all work and proceed to close out all operations.
  - 7.2.2 The Contractor must deliver all reports and estimates entirely or partially completed and all unused materials supplied by the County.
  - 7.2.3 The Contractor must appraise the work completed and submit the appraisal to the County for evaluation.
    - 7.2.3.1 In the event of termination for any reason, Contractor shall make available to the County or its designate a full accounting of the status of all county accounts.
  - 7.2.4 The County will pay the Contractor a fee for the percentage of the work actually completed as payment in full for services rendered to the date of termination.
    - 7.2.4.1 The County will make final payment within 60 days of contractor's delivery and County's acceptance of all completed or partially completed work.

## 8. INSURANCE REQUIREMENTS

- 8.1 Prior to commencement of any services, the Contractor shall provide the County with the requested insurance certificates identifying this Agreement by name and number (**see Exhibit 3**). All required insurance policies, except Workers' Compensation and Professional Liability, must name the County as Additional Insured with regard to this project.
  - 8.1.1 The Contractor must give the County thirty days written notice before cancelling any policy.
  - 8.1.2 The Contractor's failure to furnish evidence of insurance may be considered a breach of contract.

8.1.3 The Contractor must require any subcontractors to provide Worker's Compensation and Employer's Liability with at least as much coverage as that provided by the Contractor.

## **9. NON-TRANSFERABLE RESPONSIBILITIES**

9.1 No assumption or takeover of any of Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than Contractor whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration, for any reason whatsoever, may occur without County's express prior written approval.

9.2 If any such assumption, takeover, or unauthorized performance does occur without such prior written approval, this Agreement will become void for failure of its essential purpose. Such act is therefore a material breach of this Agreement, upon which County may pursue any lawful remedy.

## **10. ASSIGNMENT AND SUBCONTRACTING**

10.1 Contractor shall not assign its rights, delegate its duties or subcontract any performance of our Agreement without the express prior written consent of County. Any assignment, delegation or subcontract without such express prior written consent shall be null and void and shall constitute a material breach of this Agreement, upon which County may immediately terminate the Agreement in accordance with the provisions stated in "termination", herein.

## **11. TIME IS OF THE ESSENCE**

11.1 Time is of the Essence. If any anticipated or actual delays arise, Contractor shall immediately notify County. Regardless of notice if deliveries are not made at the time agreed upon, County may, at its sole discretion, terminate this Agreement and proceed pursuant to "termination" as stated herein.

## **12. INDEPENDENT CONTRACTOR STATUS**

12.1 This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party are not the employees or agents of the other party for any purpose whatsoever.

12.2 Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of worker's compensation liability, solely employees of Contractor and not employees of County. Contractor shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of Contractor hereunder.

12.3 The employees and agents of each party, shall while on the premises of the other party, comply with all rules and regulations of the premises, including, but not limited to, security and safety requirements.

**13. LICENSES AND BONDS**

13.1 The Contractor shall obtain whatever insurance, licenses and bonds and fulfill whatever other requirements as are required in order to perform this Agreement, and shall provide evidence of such insurance, licenses and bonds to the County.

**14. GOVERNING LAWS**

14.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

**15. THE CONTRACT DOCUMENTS** comprise the Contract, and consist of the following:

1. The Specifications (**Exhibit #1**)
2. The Accepted proposal and any attachments (**Exhibit #2**)
3. The Insurance Requirements (**Exhibit #3**)
4. The HIPAA Business Associates Agreement (**Attachment #1**)
5. The Contract Agreements

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and the are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the County hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the contractor and the County do hereby execute this contract.

**EXECUTION BY LANCASTER COUNTY, NEBRASKA**

CONTRACT APPROVED AS TO FORM:

COUNTY OF LANCASTER, NEBRASKA

\_\_\_\_\_  
Deputy County Attorney

\_\_\_\_\_  
Chairperson, Board of Commissioners

**EXECUTION BY CONTRACTOR**

IF A CORPORATION:

**“Contractor”**

Name of Corporation

ATTEST:

“Address”, “csz”

Address

\_\_\_\_\_  
Secretary

(SEAL)

By: \_\_\_\_\_  
Duly Authorized Official

\_\_\_\_\_  
Legal Title of Official

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**ATTACHMENT #1**  
**FOR: Pharmacy Services for General Assistance**  
**LANCASTER COUNTY**  
**HIPAA Business Associate Agreement**

This Agreement is made effective the \_\_\_\_\_ Day of \_\_\_\_\_, 200\_, by and between the County of Lancaster, Nebraska ("County"), on behalf of Lancaster County General Assistance ("Covered Entity") and "Contractor", "Address", "csz" ("Business Associate") (collectively the "Parties").

**1. BACKGROUND**

1. Covered Entity and Business Associate are parties to a contract entitled Pharmacy Services (the "Contract"), whereby Business Associate agrees to perform certain services for or on behalf of Covered Entity.
2. Covered Entity is an agency of Lancaster County that has been designated in whole or in part by the County as a health care component for purposes of the HIPAA Privacy Rule.
3. The relationship between Covered Entity and Business Associate is such that the Parties believe Business Associate is or may be a "business associate" within the meaning of the HIPAA Privacy Rule.
4. The Parties enter into this Business Associate Addendum to the Contract with the intention of complying with the HIPAA Privacy Rule provision that a covered entity may disclose protected health information to a business associate, and may allow a business associate to create or receive protected health information on its behalf, if the covered entity obtains satisfactory assurances that the business associate will appropriately safeguard the information.

**2. DEFINITIONS** - The following terms shall have the following meaning in this Agreement:

- 2.1 "HIPAA" means the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- 2.2 "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- 2.3 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 2.4 "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 2.5 "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.
- 2.6 "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his designee.
- 2.7 Unless otherwise defined in this Agreement, terms used herein shall have the same meaning as those terms have in the Privacy Rule.

**3. OBLIGATIONS OF BUSINESS ASSOCIATE**

- 3.1 Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.
- 3.2 Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- 3.3 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

- 3.4 Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- 3.5 Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- 3.6 Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- 3.7 Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual.
- 3.8 Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- 3.9 Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528, and to provide this information to Covered Entity or an Individual to permit such a response.

#### **4. PERMITTED USES AND DISCLOSURES**

- 4.1 Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract, provided that such use or disclosure:
  - 4.1.1 would not violate the Privacy Rule if done by Covered Entity; or
  - 4.1.2 would not violate the minimum necessary policies and procedures of the Covered Entity.
- 4.2 Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 4.3 Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that:
  - 4.3.1 disclosures are Required By Law; or
  - 4.3.2 Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 4.4 Except as otherwise limited in this Agreement, if the Contract permits, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
- 4.5 Notwithstanding the foregoing provisions, Business Associate may not use or disclose Protected Health Information if the use or disclosure would violate any term of the Contract.

## 5. TERM AND TERMINATION

- 5.1 **Term.** The Term of this Agreement shall be effective as of the effective date stated above and shall terminate when the Contract terminates.
- 5.2 **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may, at its option:
- 5.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
  - 5.2.2 Immediately terminate this Agreement; or
  - 5.2.3 If neither termination nor cure are feasible, report the violation to the Secretary as provided in the Privacy Rule.
- 5.3 **Effect of Termination.**
- 5.3.1 Except as provided in paragraph (2) of this section or in the Contract, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
  - 5.3.2 In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction not feasible. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## 6. GENERAL TERMS AND CONDITIONS

- 6.1 This Agreement amends and is part of the Contract.
- 6.2 Except as provided in this Agreement, all terms and conditions of the Contract shall remain in force and shall apply to this Agreement as if set forth fully herein.
- 6.3 In the event of a conflict in terms between this Agreement and the Contract, the interpretation that is in accordance with the Privacy Rule shall prevail. In the event that a conflict then remains, the Contract terms shall prevail so long as they are in accordance with the Privacy Rule.
- 6.4 A breach of this Agreement by Business Associate shall be considered sufficient basis for Covered Entity to terminate the Contract for cause.

The Parties to the Agreement do hereby agree that all the terms and conditions of this to the Agreement shall by these presents be binding upon themselves, and their heir(s), administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Agreement Parties do hereby execute this Addendum.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

**Lancaster County Board of Commissioners**  
**555 So. 10<sup>th</sup> Street, Lincoln, NE 68508**

BY: \_\_\_\_\_  
Chairperson

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2006.

**“Contractor”**

**“Address”**

**“Csz”**

BY: \_\_\_\_\_

PRINTED: \_\_\_\_\_

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